GAO
Accountability • Integrity • Reliability
Highlights

Highlights of GAO-11-654, a report to congressional committees

July 2011

SECURITIES AND EXCHANGE COMMISSION

Existing Post-Employment Controls Could Be Further Strengthened

Why GAO Did This Study

Many Securities and Exchange Commission (SEC) employees leave the SEC each year, and some of these former employees go to work for firms regulated by SEC or the law or consulting firms that represent them. This practice raises questions about the potential impact on SEC's ability to effectively carry out its mission, including the potential for undue influence by former SEC employees on SEC matters or cases. The Dodd-Frank Wall Street Reform and Consumer Protection Act required GAO to examine the movement of former SEC employees to regulated firms and the associated concerns. Among other things, this report examines (1) the extent to which employees leave SEC to work for or represent regulated entities and the potential issues associated with such movements and (2) internal controls SEC has in place to manage potential conflicts of interest and how these controls compare across other agencies. To address these objectives, GAO analyzed data on former SEC employees, reviewed SEC's and other agencies' internal controls, and interviewed current and former SEC officials.

What GAO Recommends

GAO recommends that SEC establish standards for documentation of ethics advice on current and post-employment issues associated with the movement of employees between SEC and other employers. SEC generally agreed with GAO's recommendation and stated that it has begun drafting standards.

View GAO-11-654 or key components.
For more information, contact A. Nicole Clowers at (202) 512-8678 or clowersa@gao.gov.

What GAO Found

Because SEC historically has not collected future employer information from separating employees on an agencywide basis, complete information on where former SEC officials obtained employment is not currently available. Based on available SEC attrition data, about 37 percent of the more than 2,000 employees who separated from SEC between October 2005 and September 2010 were in occupation categories that included examiners, accountants, economists, or attorneys—occupations particularly relevant to SEC examinations and investigations. GAO analyzed notice of appearance requests—which are required when former SEC employees wish to appear before SEC, within 2 years of their separation, for purposes of representing their firm or client—submitted between October 2005 and October 2010. Sixteen entities, consisting primarily of law and consulting firms, accounted for approximately 35 percent of the individuals filing these notices. GAO also selected a nongeneralizable sample of 150 former employees from occupation categories relevant to SEC's examination and investigative efforts and searched publicly available sources for information about their post-SEC employment. These individuals frequently obtained positions with financial, consulting, or law firms that represent firms regulated by SEC. According to SEC officials, representatives from law and financial firms, and academic researchers with whom GAO spoke, the potential benefits of employees moving between SEC and the private sector include bolstering SEC's ability to attract experts to help fulfill its mission and increasing understanding of SEC rules and regulations among industry participants. Academic researchers and citizen advocacy groups described potential challenges of such movements, such as the appearance of potential conflicts of interest when former SEC staff work for or represent regulated firms.

SEC has a number of controls for managing post-employment and conflict-of-interest issues, and many of SEC's controls are similar to those of other agencies. For example, the SEC Ethics Office provides information to employees about ethics rules and regulations as well as agency-specific conflict-of-interest and post-employment restrictions. Also, some SEC divisions and offices take steps through staffing and work processes to manage potential conflicts of interest and have multiple levels of review and systems for documenting key decisions, such as closing SEC investigations. As previously recommended by GAO, SEC also recently began collecting future employer information from separating employees. This information can be used as part of SEC's mandatory exit interviews to advise departing staff about potential conflicts of interest they might encounter in their new positions related to their SEC experience. While SEC ethics officials routinely advise current and former employees on post-employment and conflict-of-interest issues, SEC has not consistently documented this advice. The agency's lack of documentation standards could limit SEC's and employees' ability to demonstrate that appropriate consultation occurred and could contribute to questions about the movement of employees between SEC and the private sector.